

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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DAVID ORTIZ, PRO SE,	§	
TDCJ-CID No. 1050149,	§	
	§	
Plaintiff,	§	
	§	
V.	§	2:05-CV-0052
	§	
UNITED STATES OF AMERICA,	§	
	§	
Defendant.	§	

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

Plaintiff DAVID ORTIZ, proceeding *pro se* and while a prisoner in the custody of the Texas Department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to Title 42, United States Code, Section 1983 complaining against the above-named defendant and requesting permission to proceed in forma pauperis.

On February 16, 2005, the Court issued an Order and Notice of Deficiency giving plaintiff thirty days in which to cure specified deficiencies by paying the filing fee or submitting an Application to Proceed In Forma Pauperis and an I.F.P. Data Sheet.

The response period has expired and plaintiff has failed to submit an I.F.P. Data Sheet showing the average balance in his inmate trust account for the previous six-month period. Further, in response to the question whether he has any cash or money in a savings or checking account, question no. 2 of the Application to Proceed In Forma Pauperis, plaintiff informs the Court that he has "20 billion trillion in California." Whatever plaintiff may mean by this statement, it is clear that he has not submitted by I.F.P. Data Sheet showing the history of his inmate trust account for the previous six months and has, therefore, failed to cure all of the

deficiencies noted.

It appears plaintiff has abandoned his suit and his claims for relief.

It is the conclusion of the United States District Judge that plaintiff has abandoned this cause and such cause should be dismissed for failure to prosecute. *Link v. Wabash Railroad Co.*, 370 U.S. 626, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962) (court possesses inherent power to dismiss sua sponte for lack of prosecution).

IT IS THEREFORE ORDERED:

The referral of the instant cause to the United States Magistrate Judge is hereby withdrawn.

This Civil Rights Complaint is DISMISSED WITHOUT PREJUDICE FOR FAILURE TO PROSECUTE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk will mail a copy of this Order to the plaintiff and to any attorney of record by first class mail.

IT IS SO ORDERED.

ENTERED this 25<sup>th</sup> day of October, 2005.

/s/ Mary Lou Robinson  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE